

PROVISO
SUBCOMMITTEE
RECOMMENDATIONS

~ ~ ~

LAW ENFORCEMENT
AND
CRIMINAL JUSTICE

**PROVISO SUBCOMMITTEE
LAW ENFORCEMENT AND CRIMINAL JUSTICE
RECOMMENDATIONS FOR FY 2012-13
TO THE HOUSE WAYS AND MEANS COMMITTEE**

+SECTION 37 - P24 - DEPARTMENT OF NATURAL RESOURCES

37.3 **AMEND** (Proportionate Funding) Directs the department to allocate \$13,674 to each of the 46 Soil and Water Conservation Districts that meets specified minimum requirements. Provides for a reduction in the per district allocation if the department's budget is reduced during the fiscal year.

PROVISO SUBCOMMITTEE RECOMMENDATION: AMEND proviso to delete the specific reference to \$13,671 and instead direct that the funds distributed will be determined by the amount appropriated on the Aid to Conservation Districts budget line. Delete authorization for the department to apportion additional available funds based on local needs and priorities as determined by the board. Prohibit the agency from reducing the Aid to Conservation District line more than the percentage of the agency budget reduction. *Eliminating the specific amount will allow the allocation to conform to the funds on the line and in the event a budget reduction is assessed, without having to amend the proviso.* Fiscal Impact: No impact on the General Fund. Requested by Department of Natural Resources.

37.3. (DNR: Proportionate Funding) Each of South Carolina's forty-six soil and water conservation districts shall receive a proportionate share of funding set aside for Aid to Conservation Districts at \$13,674 per district for general assistance to the district's program. Available funding ~~above \$13,674~~ for each district will be determined by the appropriated amount on the Aid to Conservation District budget line and apportioned by the Department of Natural Resources ~~based upon local needs and priorities as determined by the board.~~ The agency is prohibited from reducing the amount on the Aid to Conservation District line by an amount not to exceed the percentage of the agency budget reduction. During the fiscal year, the districts' funding may only be reduced in an amount not to exceed the percentage of each agency budget reduction. No district shall receive any funds under this provision unless the county or counties wherein the district is located shall have appropriated no less than three hundred dollars to the district from county funds for the same purposes.

37.8 **DELETE** (Intellectual Property) Directs the department to develop a comprehensive written policy for treatment of intellectual property pertaining to the department's shrimp disease and culture area.

PROVISO SUBCOMMITTEE RECOMMENDATION: DELETE proviso. *DNR Policy #401.01 Intellectual Property Policy was last revised in September of 2003. The policy addresses the topics contained in this provision.* Fiscal Impact: No impact on the General Fund. Requested by Department of Natural Resources.

37.8. (DNR: Intellectual Property) ~~The Department shall develop a comprehensive written policy providing for the treatment on intellectual property accruing to the Department in the area of shrimp disease and culture. This policy must address the following issues: definitions, coverage and disclosure requirements, ownership, dispute resolution procedures, obtaining of patents and copyrights, incentives, transfer or sales or research results, promotion and licensing, use of proceeds, and release of ownership rights. Upon adoption and implementation, the Department, consistent with the policy, may sell or license intellectual property owned by the Department, upon approval of the Budget and Control Board. The net proceeds or annual net royalties, excluding any expenses including research and development, patent, licensing and litigation from intellectual property owned by the Department shall be apportioned and paid over by the Department according to the following schedule: Inventor~~

**PROVISO SUBCOMMITTEE
LAW ENFORCEMENT AND CRIMINAL JUSTICE
RECOMMENDATIONS FOR FY 2012-13
TO THE HOUSE WAYS AND MEANS COMMITTEE**

~~15%; State General Fund 85%. Proceeds apportioned and paid over to the Department shall be used by the Department for scientific research and education for the enhancement, management, and protection of natural resources in the State.~~

- 37.9 DELETE** (Reedy River) Directs the department to transfer \$1,000,000 from the State Mitigation Trust Fund to the County of Laurens for the Reedy River Restoration per the Colonial Pipeline Settlement.
- PROVISO SUBCOMMITTEE RECOMMENDATION:** DELETE proviso. *These funds are part of a court ordered settlement and cannot be distributed as directed.* Fiscal Impact: No impact on the General Fund. Following the restoration plan will have the expected distribution of Mitigation Trust Funds for Laurens County reach the Reedy River Restoration. Requested by Department of Natural Resources.

~~**37.9.** (DNR: Reedy River) The Department of Natural Resources, by September 1, 2011, shall transfer \$1,000,000 of the funds currently being held in the State Mitigation Trust Fund to the County of Laurens for the Reedy River Restoration as agreed upon in the Colonial Pipeline Settlement.~~

SECTION 44 - B04-JUDICIAL DEPARTMENT

- 44.7 DELETE** (Advance Sheet Revenues Deposit) Authorizes the department to retain and expend advance sheet revenues collected above the amount remitted to the general fund in FY 01-02.
- PROVISO SUBCOMMITTEE RECOMMENDATION:** DELETE proviso. *the agency stopped printing advance sheets in December 2008. Advanced sheets can be accessed online.* Fiscal Impact: Fees have not been charged since FY 08-09. Requested by Judicial Department.

~~**44.7.** (JUD: Advance Sheet Revenues Deposit) The Judicial Department shall retain any advance sheet revenues collected above the amount remitted to the general fund in Fiscal Year 01-02 and shall deposit such revenue into a special revenue account and expend these funds for the production and distribution of same.~~

SECTION 45 - E20 - ATTORNEY GENERAL'S OFFICE

- 45.5 AMEND** (Water Litigation) Authorizes the expenditure of Water Litigation funds and requires expenditure records to be available for review.
- PROVISO SUBCOMMITTEE RECOMMENDATION:** AMEND proviso to delete authorization to reimburse prior fiscal year Water Litigation expenditures; delete the requirement that a record of Water Litigation expenses be made available; and delete transfer of remaining Water Litigation funds to specified agencies. *Funds have been distributed.* Fiscal Impact: No impact on the General Fund. The Attorney General's Office state that no funds remained in the account as of 7/11. Of the \$2,195,516, 50% or \$1,097,758 was transferred to DNR; 25% or \$548,879 was transferred to the Commission on Indigent Defense; and 25% or \$548,879 was retained by the agency and placed in an account for legal expenses associated with Federal litigation and litigation with other states. Requested by Attorney General's Office.

~~**45.5.** (AG: Water Litigation) The Office of the Attorney General is authorized to expend Water Litigation funds in the current fiscal year to reimburse Water Litigation expenditures incurred in the prior fiscal year. A record of Water Litigation expenses from the prior fiscal~~

**PROVISO SUBCOMMITTEE
LAW ENFORCEMENT AND CRIMINAL JUSTICE
RECOMMENDATIONS FOR FY 2012-13
TO THE HOUSE WAYS AND MEANS COMMITTEE**

~~year shall be made available to the Senate Finance Committee and the House Ways and Means Committee. During the current fiscal year the Attorney General must use the remaining Water Litigation funds only as follows: twenty five percent of the balance on July first must be transferred to the Commission on Indigent Defense for the Civil Appointment Fund, twenty five percent of the balance on July first must be used only for legal expenses incurred by the Attorney General regarding Federal litigation and litigation with other states, and fifty percent of the balance on July first must be transferred to the Department of Natural Resources by September first for law enforcement operations.~~

- 45.6 DELETE** (Auction Rate Securities Settlement/Water Rights) Authorizes the Attorney General's Office to retain and carry forward FY 09-10 and FY 10-11 Auction Rate Securities Settlement funds and to expend these funds for the Water Litigation lawsuit. Requires these Auction Rate Securities Settlement funds that remain after the SC vs. NC water lawsuit is settled to be deposited into the General Fund.

PROVISO SUBCOMMITTEE RECOMMENDATION: DELETE proviso. *The lawsuit has been settled.* Fiscal Impact: No impact on the General Fund. the Attorney General's Office indicate that no funds remain in the account. Requested by the Attorney General's Office.

~~**45.6.** (AG: Auction Rate Securities Settlement/Water Rights) The Office of Attorney General is authorized to retain and expend funds received in Fiscal Year 2009-10 and in Fiscal Year 2010-11 from the "Auction Rate Securities Settlement" to pay for expenses and fees associated with the South Carolina vs. North Carolina water lawsuit (United States Supreme Court original Jurisdiction Case Number 138.) The Office of Attorney General is authorized to use a portion of these funds to reimburse Water Litigation expenses incurred in the prior fiscal year. These funds may be carried forward from the prior fiscal year into the current fiscal year and be utilized for the same purpose. Upon satisfaction of the South Carolina vs. North Carolina water lawsuit, any remaining Auction Rate Securities Settlement funds shall be deposited into the general fund. This paragraph takes effect on the earlier of July 1, 2010, or the date on which water settlement revenue in Fiscal Year 2009-10 exceeded \$2,200,000.~~

SECTION 46 - E21 - PROSECUTION COORDINATION COMMISSION

- 46.3 AMEND** (Judicial Circuits State Support) Requires Judicial Circuits (16) State Support funds to be apportioned among the circuits on a per capita basis based on the 2000- census.

PROVISO SUBCOMMITTEE RECOMMENDATION: AMEND proviso to change reference to the 2000 census to the "current" official census. *Since we are now using the 2010 census, this change will make amending the proviso in the future unnecessary.* Fiscal Impact: No impact on the General Fund. Requested by Prosecution Coordination Commission.

~~**46.3.** (PCC: Judicial Circuits State Support) The amount appropriated and authorized in this section for Judicial Circuits (16) State Support shall be apportioned among the circuits on a per capita basis and based upon the current official census of 2000. Payment shall be made as soon after the beginning of each quarter as practical.~~

- 46.6 AMEND** (Solicitors Victim/Witness Assistance Programs) Directs that available Solicitors Victim Witness Assistance funds be apportioned among the circuits on a per capita basis based on the 2000 census.

**PROVISO SUBCOMMITTEE
LAW ENFORCEMENT AND CRIMINAL JUSTICE
RECOMMENDATIONS FOR FY 2012-13
TO THE HOUSE WAYS AND MEANS COMMITTEE**

PROVISO SUBCOMMITTEE RECOMMENDATION: AMEND proviso to change reference to the 2000 census to the “current” official census. *Since we are now using the 2010 census, this change will make amending the proviso in the future unnecessary.* Fiscal Impact: No impact on the General Fund. Requested by Prosecution Coordination Commission.

46.6. (PCC: Solicitors Victim/Witness Assistance Programs) When funds are available, the amount appropriated and authorized in Part IA, Section 46 for Solicitors Victim/Witness Assistance Programs shall be apportioned among the circuits on a per capita basis and based upon the current official census ~~of 2000~~. Payment shall be made as soon after the beginning of each quarter as practical.

46.7 **DELETE** (Violent Crime, CDV, DUI Prosecution) Requires the commission to retain federal grant information and data on criminal domestic violence and driving under the influence prosecutions and provide the General Assembly with an annual report on charges prosecuted by assistant solicitors funded by the federal grant.

PROVISO SUBCOMMITTEE RECOMMENDATION: DELETE proviso. *The CDV prosecution grant will end June 30,2012 and the DUI prosecution grant is now administered directly by DPS. See new proviso 46.cdv.* Fiscal Impact: No impact on the General Fund. Requested by Prosecution Coordination Commission.

~~**46.7.** (PCC: Violent Crime, CDV, DUI Prosecution) The Prosecution Coordination Commission shall retain information and data on any federally funded grants whose purpose is for the prosecution of criminal domestic violence and/or driving under the influence charges and shall provide the General Assembly with an annual report no later than sixty days after the conclusion of the fiscal Year detailing those charges handled by assistant solicitors who are funded by the grant(s). If not privileged information by law, the report shall at a minimum include information and statistics regarding the number of dispositions, types of dispositions, and county in which the dispositions took place.~~

46.8 **DELETE** (Central Office Staff) Limits the central office to 4 specific state funded FTEs for the current fiscal year but excludes grant funded FTEs. Directs the Office of State Budget to assist the agency with implementing this provision; to identify savings achieved; and to transfer any savings to Judicial Circuits State Support.

PROVISO SUBCOMMITTEE RECOMMENDATION: DELETE proviso. *The commission has moved into state-owned office space and would like flexibility to fill vacant positions.* Fiscal Impact: No impact on the General Fund. Requested by Prosecution Coordination Commission.

~~**46.8.** (PCC: Central Office Staff) For the current fiscal year, the central office is limited to 4 State Funded FTE's as follows: Executive Director, Administrative Assistant, Education Coordinator, and the Coordinator for Pre Trial Intervention. This limitation does not apply to FTE's funded with grant funds. The Office of State Budget shall assist the agency with the implementation of this proviso to include the re-location of central office staff in a state owned office building as soon as practicable. In addition the Office of State Budget shall identify the savings achieved by this proviso. Any savings achieved must be transferred to Judicial Circuits State Support. Nothing in this proviso shall be construed to limit the powers and duties of the Commission on Prosecution Coordination.~~

**PROVISO SUBCOMMITTEE
LAW ENFORCEMENT AND CRIMINAL JUSTICE
RECOMMENDATIONS FOR FY 2012-13
TO THE HOUSE WAYS AND MEANS COMMITTEE**

- 46.cdv** **ADD / CONFORM TO FUNDING.** (CDV Prosecutions) **PROVISO SUBCOMMITTEE RECOMMENDATION:** ADD new proviso and CONFORM TO FUNDING to require Criminal Domestic Violence (CDV) Prosecution funds be apportioned among the circuits on a pro-rata basis. Require the commission to retain non-privileged CDV prosecution information and data and provide such information, including the number and types of dispositions and the county where the disposition took place, to the General Assembly in an annual report within 60 days after the end of the fiscal year. *This proviso was a part of deleted proviso 46.7.* Fiscal Impact: \$1,800,000 has been requested for CDV prosecutions.

46.cdv. (PCC: CDV Prosecution) The amount appropriated and authorized in this section for Criminal Domestic Violence Prosecution shall be apportioned among the circuits on a pro-rata basis. If not privileged information, the Prosecution Coordination Commission shall collect and retain information and data regarding Criminal Domestic Violence Prosecution and shall include: the number of dispositions, types of dispositions and county in which the disposition took place and shall provide the General Assembly with an annual report no later than sixty days after the conclusion of the fiscal year.

- 46.vap** **ADD/MOVED** (Victim Assistance Programs) **PROVISO SUBCOMMITTEE RECOMMENDATION:** ADD moved proviso to state the intent that funds appropriated for solicitor's victim assistance programs are in addition to amounts currently being provided by the county and shall not supplant funding already allocated for that service. Direct that if a county reduces such funding, state funds provided for victim assistance services to the solicitor's office in that county will be reduced by a corresponding amount. Require each solicitor's office to prepare an annual report that describes the use of these funds for the preceding fiscal year and submit it to the Governor, the Attorney General, and the Chairmen of the Senate Finance and House Ways and Means Committees on October 1. *Moved from Governor's Office of Executive Policy and Programs, proviso 72.7.* Fiscal Impact: Funds associated with this proviso need to be moved from OEPP.

46.vap. (PCC: Victim Assistance Programs) It is the intent of the General Assembly that the amounts appropriated in this section for victim assistance programs in solicitors' offices shall be in addition to any amounts presently being provided by the county for these services and may not be used to supplant funding already allocated for such services. Any reduction by any county in funding for victim assistance programs in solicitors' offices shall result in a corresponding decrease of state funds provided to the solicitors' office in that county for victim assistance services. Each solicitor's office shall submit an annual financial and programmatic report which describes the use of these funds. The report shall be submitted to the Governor, the Attorney General, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee on October 1, for the preceding fiscal year.

- 46.evww** **ADD/MOVED** (Establish Victim/Witness Program) **PROVISO SUBCOMMITTEE RECOMMENDATION:** ADD moved proviso to establish a Victim Witness program in the solicitor's office of each circuit; direct that funds be divided equally among the circuits; and provide guidelines for the services to be provided. *Moved from Governor's Office of Executive Policy and Programs, proviso 72.8.* Fiscal Impact: Funds associated with this proviso need to be moved from OEPP.

46.evww. (PCC: Establish Victim/Witness Program) The funds appropriated in this section for Victim/Witness Program must be equally divided among the judicial circuits, less any

**PROVISO SUBCOMMITTEE
LAW ENFORCEMENT AND CRIMINAL JUSTICE
RECOMMENDATIONS FOR FY 2012-13
TO THE HOUSE WAYS AND MEANS COMMITTEE**

adjustments made for budget reductions. The funds for each circuit must be distributed to the solicitor's office of that circuit and only used by the solicitor for the purpose of establishing a Victim/Witness Program in the circuit which shall provide, but not be limited to, the following services:

(1) Make available to victims/witnesses information concerning their cases from filing in general sessions court through disposition.

(2) Keep the victim/witness informed of his rights and support his right to protection from intimidation.

(3) Inform victims/witnesses of and make appropriate referrals to available services such as medical, social, counseling, and victims' compensation services.

(4) Assist in the preparation of victims/witnesses for court.

(5) Provide assistance and support to the families or survivors of victims where appropriate.

(6) Provide any other necessary support services to victims/witnesses such as contact with employers or creditors.

(7) Promote public awareness of the program and services available for crime victims.

The funds may not be used for other victim-related services until the above functions are provided in an adequate manner.

SECTION 47 - E23 - COMMISSION ON INDIGENT DEFENSE

47.1 AMEND (Defense of Indigents Formula) Provides for the distribution of Defense of Indigents funds.

PROVISO SUBCOMMITTEE RECOMMENDATION: AMEND proviso to delete the requirements that once either the Death Penalty Trial Fund or Conflict Fund is fully funded, the revenue be directed to the other fund until it is also fully funded; and once both are fully funded to apportion the remaining revenue among counties' public defender offices; and delete the directive that Conflict Funds remaining at the end of the fiscal year be rolled over into the fund for payment of attorney's fees and expenses in capital cases if the Capital Fund has been exhausted. Require a written order certified by the court in order to provide reimbursement in excess of the established hourly rate and limit. Provide guidelines for approval for investigative, expert, or other services on behalf of a defendant. Require indigent defense vouchers to be reviewed and paid according to procedures and policies established by the commission and direct that such procedures and policies be provided to the Senate Finance and House Ways and Means Committees. Fiscal Impact: No impact on the General Fund. Requested by Commission on Indigent Defense.

47.1. (INDEF: Defense of Indigents Formula) The amount appropriated in this Act for "Defense of Indigents" shall be apportioned among counties in accord with Section 17-3-330, 1976 Code, but on a per capita basis and based upon the most current official decennial census of the United States; provided that no county shall receive funding in an amount less than the amount apportioned to it as of July 1, 2005. The level of contribution of each county as of July 1, 2001, must be maintained. No county shall be permitted to contribute less money than the amount the county contributed in the prior fiscal year. Within the amount of money established for indigent defense services, the State shall set aside \$3,000,000 (Death Penalty Trial Fund) annually exclusively for use of the defense in capital cases pursuant to Section 16-3-26 of the 1976 Code, and for the expenses of the operation of the Commission on Indigent Defense to include salaries and operations expenses of the Death Penalty Trial Division. The State also

**PROVISO SUBCOMMITTEE
LAW ENFORCEMENT AND CRIMINAL JUSTICE
RECOMMENDATIONS FOR FY 2012-13
TO THE HOUSE WAYS AND MEANS COMMITTEE**

shall set aside \$2,500,000 annually to pay fees and expenses of private counsel appointed in non-capital cases pursuant to Section 17-3-50 (Conflict Fund). Of the funds generated from the fees imposed under Sections 14-1-206(C)(4), 14-1-207(C)(6) and 14-1-208(C)(6) and the application fee provided in Section 17-3-30(B), on a monthly basis, fifty percent must be deposited into the Death Penalty Trial Fund, fifteen percent must be deposited into the Conflict Fund ~~until each of these funds has received the required level of deposit, and the remaining funds each month must be apportioned among the counties' public defender offices pursuant to Section 17-3-330. When either the Death Penalty Trial Fund or the Conflict Fund has been fully funded, the monthly revenue being set aside for that fund will be directed to the other fund until it is completely funded. Upon complete funding of both the Death Penalty Trial Fund and the Conflict Fund, all revenue collected pursuant to Sections 14-1-206(C)(4), 14-1-207(C)(6), 14-1-208(C)(6), and 17-3-30(B) must be apportioned among the counties' public defender offices pursuant to Section 17-3-330. At the end of each fiscal year, any funds remaining in the Conflict Fund shall be treated as provided in Section 17-3-330(B).~~ At the end of each fiscal year any leftover funds shall carryover to the next fiscal year. All applications for the payment of fees and expenses in capital cases shall be applied for from the Death Penalty Trial Fund which shall be administered by the Commission on Indigent Defense. All applications for the payment of fees and expenses of private counsel or expenses of public defenders pursuant to Section 17-3-50 shall be applied for from the Conflict Fund administered by the ~~Office of~~ Commission on Indigent Defense. Reimbursement in excess of the hourly rate and limit set forth in Section 17-3-50 is authorized only if the court certifies, in a written order with specific findings of fact, prior to the fees being incurred, that reimbursement in excess of the rates or limit is necessary to provide reimbursement adequate to ensure effective assistance of counsel and reimbursement in excess of the limit is appropriate because the services to be provided are reasonable and necessary. If prior approval by written order of the court is not obtained, no additional fees shall be paid under any circumstances.

Upon a finding in ex parte proceedings that investigative, expert, or other services are reasonable and necessary for the representation of the defendant, the court shall authorize the defendant's attorney to obtain such services on behalf of the defendant and shall authorize the payment, from funds available to the Commission on Indigent Defense, of fees and expenses not to exceed five hundred dollars as the court considers appropriate. Payment in excess of the five hundred dollar limit is authorized only if the court certifies, in a written order with specific findings of fact, prior to the expense being incurred, that payment in excess of the limit is appropriate because the services to be provided are reasonable and necessary to provide adequate defense. Payments shall be made from funds appropriated for this purpose from the Commission of Indigent Defense. If prior approval by written order of the court is not obtained, no additional expenses shall be paid under any circumstances.

Indigent defense vouchers authorized in this provision must be reviewed and paid pursuant to procedures and policies established by the Commission on Indigent Defense. The commission shall provide a copy of the established procedures and policies to the Senate Finance Committee and the House Ways and Means Committee.

47.3 AMEND (Appellate Conflict Fund) Provides guidelines for the use of the Appellate Conflict Fund.

PROVISO SUBCOMMITTEE RECOMMENDATION: AMEND proviso to change "Office of Indigent Defense" references to "Commission on Indigent Defense." *Technical.* Fiscal Impact: No impact on the General Fund. Requested by Commission on Indigent Defense.

**PROVISO SUBCOMMITTEE
LAW ENFORCEMENT AND CRIMINAL JUSTICE
RECOMMENDATIONS FOR FY 2012-13
TO THE HOUSE WAYS AND MEANS COMMITTEE**

47.3. (INDEF: Appellate Conflict Fund) The purpose of this fund is to provide money to pay attorneys for representing indigent defendants on appellate review when the Office of Appellate Defense is unable to do so. Funds designated for appellate use in conflict cases shall be administered by the ~~Office of~~ Commission on Indigent Defense. The Office of Appellate Defense must first determine that it is unable to provide representation. Fees shall be \$40 per hour for out of court work and \$60 for in court work, with a maximum of \$3,500 per case for non-capital appeals. Fees shall be \$50 per hour for out of court work and \$75 per hour for in court work in capital appeals with a maximum of \$10,000 per capital appeal. The appropriate appellate court shall review and approve vouchers for payment for appellate conflict cases. The Office of Appellate Defense shall continue to provide printing and other support functions currently provided from their resources. On June thirtieth of each year, the ~~Office of~~ Commission on Indigent Defense shall review all outstanding obligations in this fund. Any unspent and unobligated money shall be used to pay outstanding vouchers in the Death Penalty Trial Fund or the Conflict Fund, provided the designated fund has become exhausted during the year.

47.4 **AMEND** (Civil Court Appointments) Directs the expenditure of Civil Court Appointments funds to reimburse court appointed private attorneys for Civil Court Appointments including Termination of Parental Rights, Abuse and Neglect, Probate Court Commitments, Sexually Violent Predator Act, and Post Conviction Relief. Prohibits Civil Court Appointments funds from being transferred or used for any other purpose. Establishes a reimbursement rate and provides guidelines for reimbursement to exceed the limits.

PROVISO SUBCOMMITTEE RECOMMENDATION: AMEND proviso to change “Civil Court Appointments” references to “SC Appellate Court Rule 608 Appointments” and include guidelines for the expenditure of funds for Criminal Conflict appointments as follows: attorney compensation rates shall not exceed \$40 per hour for out-of-court time and \$60 per hour for in-court time, or on the basis of a set (flat) fee determined by the commission. Limit attorney fees to \$3,500 in any single felony case or \$1,000 in any single misdemeanor case. *Conform to SC Appellate Court Rule 608 pertaining to appointment of lawyers for indigents.* Fiscal Impact: No impact on the General Fund. Requested by Commission on Indigent Defense.

47.4. (INDEF: ~~Civil Court~~ SC Appellate Court Rule 608 Appointments) The funds appropriated under “~~Civil Court~~ SC Appellate Court Rule 608 Appointments” shall be used for Civil Court Appointments including Termination of Parental Rights, Abuse and Neglect, Probate Court Commitments, Sexually Violent Predator Act, and Post Conviction Relief (PCR) and Criminal Conflict appointments to reimburse court appointed private attorneys and for other expenditures as specified in this provision. ~~Civil Court~~ SC Appellate Court Rule 608 Appointments funds may not be transferred or used for any other purpose.

A portion of the funds appropriated under “~~Civil Court~~ SC Appellate Court Rule 608 Appointments” shall be used for “Termination of Parental Rights” cases and “Abuse and Neglect” cases to reimburse private attorneys who are appointed by the Family Court to represent guardians ad litem, children, or parents under the provisions of S.C. Code Sections 20-7-110 et seq., 20-7-1570 et seq., 20-7-1695 (A)(2) et seq., 20-7-7205 et seq., and 20-7-8705 (4)(a) et seq.; for “Probate Court Commitment” cases to reimburse private attorneys who are appointed by the Probate Court to represent indigent persons; and for “Sexually Violent Predator” cases to reimburse private attorneys who are appointed by the Circuit Court pursuant to Sections 44-48-10, et seq., to represent indigent persons. When private counsel is appointed pursuant to these provisions, counsel shall be reimbursed a reasonable fee to be determined on the basis of fifty dollars per hour or reimbursement may also be made on the basis of a set (flat)

**PROVISO SUBCOMMITTEE
LAW ENFORCEMENT AND CRIMINAL JUSTICE
RECOMMENDATIONS FOR FY 2012-13
TO THE HOUSE WAYS AND MEANS COMMITTEE**

fee. The method of payment and the amount of the set fee will be determined by the Commission on Indigent Defense. ~~Reimbursement~~ Attorney fees shall not exceed two thousand dollars for any case under which such private attorney is appointed.

A portion of the funds appropriated under “~~Civil Court~~ SC Appellate Court Rule 608 Appointments” shall be used for non-capital Post Conviction Relief Cases. Any attorney appointed shall be compensated at a rate not to exceed forty dollars per hour for time expended out of court and sixty dollars per hour for time expended in court, or on the basis of a set (flat) fee. The method of payment and amount of set (flat) fee will be determined by the Commission on Indigent Defense. ~~Compensation and costs~~ Attorney fees shall not exceed one thousand dollars in any single case.

A portion of the funds appropriated under SC Appellate Court Rule 608 Appointments” shall be used for non capital criminal cases pursuant to Section 17-3-50 (Conflict Fund). Any attorney appointed shall be compensated at a rate not to exceed forty dollars per hour for time expended out of court and sixty dollars per hour for time expended in court, or on the basis of a set (flat) fee. The method of payment and amount of set (flat) fee will be determined by the Commission on Indigent Defense. Attorney fees shall not exceed three thousand five hundred dollars in any single felony case or one thousand dollars in any single misdemeanor case.

Reimbursement in excess of the hourly rate and limit set forth herein is authorized only if the court certifies, in a written order with specific findings of fact, prior to the fees being incurred, that reimbursement in excess of the rates or limit is necessary to provide reimbursement adequate to ensure effective assistance of counsel and reimbursement in excess of the limit is appropriate because the services to be provided are reasonable and necessary. If prior approval by written order of the court is not obtained, no additional fees shall be paid under any circumstances.

Upon a finding in ex parte proceedings that investigative, expert, or other services are reasonable and necessary for the representation of the defendant, the court shall authorize the defendant’s attorney to obtain such services on behalf of the defendant and shall authorize the payment, from funds available to the ~~Office of~~ Commission on Indigent Defense, of fees and expenses not to exceed five hundred dollars as the court considers appropriate. Payment in excess of the five hundred dollar limit is authorized only if the court certifies, in a written order with specific findings of fact, prior to the expense being incurred, that payment in excess of the limit is appropriate because the services to be provided are reasonable and necessary to provide adequate defense. Payments shall be made from funds appropriated for this purpose from the Commission of Indigent Defense. If prior approval by written order of the court is not obtained, no additional expenses shall be paid under any circumstances.

Indigent defense vouchers authorized in this provision must be reviewed and paid pursuant to procedures and policies established by the Commission on Indigent Defense. The commission shall provide a copy of the established procedures and policies to the Senate Finance Committee and the House Ways and Means Committee.

A portion of the funds appropriated under “~~Civil Court~~ SC Appellate Court rule 608 Appointments” may be used by the Commission on Indigent Defense to retain, on a contractual basis, the services of attorneys qualified to handle civil and criminal court appointments, to be reimbursed in accordance with applicable provisos and statutes.

- 47.5 AMEND** (Volunteer Guardian Ad Litem Appointments and Attorney Representation) Directs that a portion of Civil Court Appointments funds be provided for attorneys who represent volunteer Guardians ad Litem in child abuse and neglect and termination of parental rights actions in Family Court.

**PROVISO SUBCOMMITTEE
LAW ENFORCEMENT AND CRIMINAL JUSTICE
RECOMMENDATIONS FOR FY 2012-13
TO THE HOUSE WAYS AND MEANS COMMITTEE**

PROVISO SUBCOMMITTEE RECOMMENDATION: AMEND proviso to change “Civil Court Appointments” to “SC Appellate Court Rule 608 Appointment.” *Conform to SC Appellate Court Rule 608 pertaining to appointment of lawyers for indigents.* Fiscal Impact: No impact on the General Fund. Requested by Commission on Indigent Defense.

47.5. (INDEF: Volunteer Guardian Ad Litem Appointments and Attorney Representation) The Commission on Indigent Defense working with the Guardian ad Litem’s Office of the Division of Children’s Services, shall allocate a portion of the funds provided for ~~Civil Court~~ SC Appellate Court Rule 608 Appointments for payments of contracts with attorneys who agree to represent volunteer Guardians ad Litem in child abuse and neglect and termination of parental rights actions in Family Court, based on the rate of \$100 per completed hearing. In determining the amount to be allocated, the commission must take into account the total funds appropriated and weigh this sum against the other demands and obligations of the ~~Civil~~ SC Appellate Court Rule 608 Appointment Fund. The Commission on Indigent Defense shall report to the Senate Finance Committee and the House Ways and Means Committee any payments to individual guardians ad litem from funds provided from the ~~Civil~~ SC Appellate Court Rule 608 Appointment Fund.

47.6 **AMEND** (Carry Forward) Authorizes unencumbered Appellate Conflict and Civil Funds to be carried forward to offset budget reductions.

PROVISO SUBCOMMITTEE RECOMMENDATION: AMEND proviso to change “Office of” to “Commission on” Indigent Defense and change “Civil” reference to “SC Appellate Court Rule 608 Appointment” Fund. *Conform to SC Appellate Court Rule 608 pertaining to appointment of lawyers for indigents.* Fiscal Impact: No impact on the General Fund. Requested by Commission on Indigent Defense.

47.6. (INDEF: Carry Forward) To offset budget reductions, the ~~Office of~~ Commission on Indigent Defense may carry forward and utilize any unencumbered balances available in the Appellate Conflict Fund and the ~~Civil~~ SC Appellate Court Rule 608 Appointment Fund at the end of the prior fiscal year.

47.7 **AMEND** (Public Defender Fee) Provides guidelines for the assessment and use of a \$500 fee charged to every person placed on probation on or after July 1, 2003, who was represented by a public defender or appointed counsel.

PROVISO SUBCOMMITTEE RECOMMENDATION: AMEND proviso to change “Office of” to “Commission on” Indigent Defense. Delete the requirement that the revenue be divided between the Conflict Fund and the Defense of Indigents Per Capita Fund. Fiscal Impact: No impact on the General Fund. Requested by Commission on Indigent Defense.

47.7. (INDEF: Public Defender Fee) Every person placed on probation on or after July 1, 2003, who was represented by a public defender or appointed counsel, shall be assessed a fee of five hundred dollars. The revenue generated from this fee must be collected by the clerk of court and sent on a monthly basis to the ~~Office of~~ Commission on Indigent Defense ~~to be divided between the Conflict Fund and the Defense of Indigents/Per Capita Fund administered by that office.~~ However, if a defendant fails to pay this fee, this failure alone is not sufficient basis for incarceration for a probation violation. This assessment shall be collected and paid over before any other fees.

**PROVISO SUBCOMMITTEE
LAW ENFORCEMENT AND CRIMINAL JUSTICE
RECOMMENDATIONS FOR FY 2012-13
TO THE HOUSE WAYS AND MEANS COMMITTEE**

SECTION 48 - D10 - STATE LAW ENFORCEMENT DIVISION

48.17 DELETE (SLED: Meth Lab Study Committee) Directs SLED to form committee to study the problems and costs of cleaning up illegal meth labs and report recommendations to the General Assembly by January 30, 2012.

PROVISO SUBCOMMITTEE RECOMMENDATION: DELETE proviso. *The study is complete and the report has been submitted.* Fiscal Impact: No impact on the General Fund. Requested by State Law Enforcement Division.

~~48.17. (SLED: Meth Lab Study Committee) From the funds appropriated to or authorized for the State Law Enforcement Division, the division is directed to form a committee consisting of the Department of Health and Environmental Control, emergency management personnel, local law enforcement, municipal and county officials, and any additional entities they deem necessary to study the problems of cleaning illegal methamphetamine labs, disposing of hazardous materials from those labs, and the costs associated with such clean ups. The State Law Enforcement Division shall make a written report with recommendations to the General Assembly no later than January 30, 2012.~~

48.crs ADD (Criminal Record Search Fees) **PROVISO SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to authorize SLED to charge and collect a \$8 fee from local governmental entities to perform a criminal record search for local park and recreation volunteers. Fiscal Impact: PENDING.

48.crs. (SLED: Criminal Record Search Fees) The State Law Enforcement Division is authorized to charge and collect a fee of eight dollars for a criminal record search for local park and recreation volunteers through a commission, municipality, or county.

SECTION 51 - N04 - DEPARTMENT OF CORRECTIONS

51.1 DELETE (Clothes/Transportation Upon Discharge) Requires the department to furnish clothes to an inmate when they are discharged and provides guidelines for providing transportation to the inmate upon their release.

PROVISO SUBCOMMITTEE RECOMMENDATION: DELETE proviso. *Codified in Section 24-3-180.* Fiscal Impact: No impact on the General Fund. Requested by Department of Corrections

~~51.1. (CORR: Clothes/Transportation Upon Discharge) Whenever an inmate shall be discharged from the Department of Corrections, the department shall furnish such inmate with a suit of common clothes, if deemed necessary, and transportation from the Department of Corrections to his home, if his home is located within this State. If his home is not located in South Carolina, the Department of Corrections has the discretion of providing transportation to the inmate's home state, or to the county from which he was sentenced.~~

51.3 DELETE (Contract for Services) Provides guidelines for the department to contract for construction services.

PROVISO SUBCOMMITTEE RECOMMENDATION: DELETE proviso. *Proviso is no longer necessary. It was needed when the department was building several new prisons.* Fiscal Impact: No impact on the General Fund. Requested by Department of Corrections

**PROVISO SUBCOMMITTEE
LAW ENFORCEMENT AND CRIMINAL JUSTICE
RECOMMENDATIONS FOR FY 2012-13
TO THE HOUSE WAYS AND MEANS COMMITTEE**

~~51.3. (CORR: Contract for Services) Upon initiation by the South Carolina Department of Corrections, and upon prior approval by the Budget and Control Board, the Department of Corrections may contract for any and all services, but such services must (1) demonstrate reasonably comparable, cost effectiveness to traditional methods of construction, (2) result in long term operational cost savings, (3) result in the provision of a new facility of sufficient bed, program, and support space more expeditiously than traditional methods, and (4) be subject to the year to year appropriation process of the General Assembly and state procurement procedures.~~

51.14 AMEND (Major Renovations and Repairs) Authorizes the department to use existing 1997 Bond Act funds for new beds, particularly at the MacDougall and Kirkland institutions, for major renovations and repairs; and to construct new beds as the budget and inmate population dictates.

PROVISO SUBCOMMITTEE RECOMMENDATION: AMEND proviso to delete specific reference to constructing beds at MacDougall and Kirkland Correctional Institutions. *Do not need new beds at MacDougall or Kirkland.* Fiscal Impact: No impact on the General Fund. Requested by Department of Corrections.

~~51.14. (CORR: Major Renovations and Repairs) The Department of Corrections may utilize any existing bond funds approved by the 1997 Bond Act for the construction of new beds and particularly those currently designated for construction of beds at MacDougall Correctional Institution and maximum security beds at Kirkland Correctional Institution, for major renovations and repairs and/or the construction of new beds as the budget and inmate population dictate.~~

51.16 AMEND (Release of Inmates) Provides guidelines for when inmates who must serve six months or more, may be released.

PROVISO SUBCOMMITTEE RECOMMENDATION: AMEND proviso to allow the department, in releasing prisoners who have served at least 85% of their term of imprisonment in accordance with subsection (A) of Section 24-13-150 [EARLY RELEASE, DISCHARGE, AND COMMUNITY SUPERVISION; LIMITATIONS], to use the same timeframe guidelines as outlined in this provision. *Releasing inmates on a single day at the beginning of the month rather on the actual date sentence is served reduces operating expenses.* Fiscal Impact: Minor reduction of state funds expenses. Requested by Department of Corrections.

~~51.16. (CORR: Release of Inmates) The Director of the Department of Corrections and other persons having charge of prisoners who are required to serve a period of six months or more, may release *all* such prisoners, including prisoners to whom Section 24-13-150, subsection (A) of the 1976 Code applies, on the first day of the month in which their sentences expire, and if the first day of the month falls on a Saturday, Sunday, or a legal holiday, such prisoners may be released on the last weekday prior to the first of the month which is not a holiday, ~~Saturday or Sunday.~~~~